

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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| DOC #: |
| DATE FILED: 11/26/14 |

NYP Holdings, Inc.,

Plaintiff,

- against -

NEW YORK POST PUBLISHING INC.,
STEVEN JUDE HOFFENBERG, and JANE
DOES 1-10,

Defendants.

X
14 Civ. 8310 (VM)

**CIVIL CASE MANAGEMENT PLAN
AND SCHEDULING ORDER**

This Scheduling Order and Case Management Plan is adopted in accordance with Fed. R. Civ. P. 16-26(f).

1. This case (is)(is not) to be tried to a jury: [circle one]: Defendant believes this case is to be tried to a jury. Plaintiff reserves the right to move the Court for a non-jury trial in the event that the case goes to trial and only equitable claims remain.
2. Joinder of additional parties to be accomplished by December 1, 2014.
3. Defendants Answer and Counterclaims to be filed by December 17, 2014. Amended pleadings may be filed without leave of the Court until January 15, 2015.
4. Initial disclosure pursuant to Fed. R. Civ. P. 26(a)(1) to be completed within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f), specifically by not later than December 4, 2014.
5. All fact discovery is to be completed either:
 - a. Within one hundred twenty (120) days of the date of this Order, specifically by not later than March 1, 2015; or
 - b. Within a period exceeding 120 days, with the Court's approval, if the case presents unique complexities or other exceptional circumstances, specifically by not later than N/A.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.

- a. Initial requests for production of documents to be served by January 15, 2015.
- b. Interrogatories to be served by all party by January 15, 2015.
- c. Depositions to be completed by March 1, 2015.
 - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. Depositions of all parties shall proceed during the same time.
 - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow party depositions when possible.
- d. Any additional contemplated discovery activities and the anticipated completion date:

N/A

-
- e. Requests to Admit to be served no later than January 30, 2015.
 7. All expert discovery (ordinarily conducted following the completion of fact discovery) including parties' expert reports and depositions, witness lists and identification of documents pursuant to Fed. R. Civ. P. 26(a)(2), (3) and 35(b), is to be completed by:
 - a. Plaintiff March 31, 2015.
 - b. Defendant March 31, 2015.
 8. Contemplated motions:
 - a. Plaintiff: Motion to dismiss; summary judgment
 - b. Defendant: Motion to dismiss; summary judgment.
 9. Following all discovery, all counsel must meet for at least one hour to discuss settlement, such conference to be held by not later than April 5, 2015.
 10. Do all parties consent to trial by a Magistrate Judge under 28 U.S.C. § 636(c)?

Yes _____ No X

TO BE COMPLETED BY THE COURT:

11. The next Case Management Conference is scheduled for 3-6-15 at 9:30 a.m.

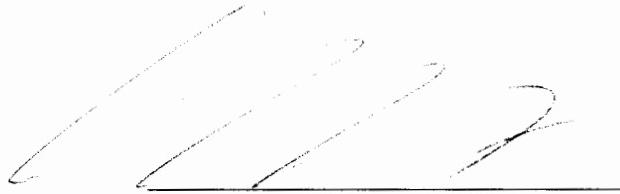
In the event the case is to proceed to trial, a firm trial date and the deadline for submission of the Joint Pretrial Order and related documents shall be scheduled at the pretrial conference following either the completion of all discovery or the Court's ruling on any dispositive motion.

The Joint Pretrial Order should be prepared in accordance with Judge Marrero's Individual Practices. If this action is to be tried before a jury, proposed voir dire and jury instructions shall be filed with the Joint Pretrial Order. No motion for summary judgment shall be served after the deadline fixed for the Joint Pretrial Order.

SO ORDERED:

DATED: New York, New York

16 November 2014



VICTOR MARRERO
U.S.D.J.



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November 25, 2014

By Hand

Hon. Victor Marrero
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: NYP Holdings, Inc. v. New York Post Publishing Inc., 14 Civ. 8310 (VM)

Dear Judge Marrero:

Pursuant to your Order dated November 17, 2014 (the “Decision and Order”), I write on behalf of the parties jointly to submit for your approval a proposed case management plan to govern the schedule of pretrial proceedings in this case.

Although no initial case management conference has been scheduled, we also write to provide the Court with the information requested in Your Honor’s Individual Rule IV.A. The facts and legal contentions of the parties are set forth in the Decision and Order. Both parties anticipate moving for summary judgment after the close of discovery. Plaintiff NYP Holdings reserve the right to make a motion to dismiss Defendants’ counterclaims, depending on the nature of those counterclaims.¹ The parties have discussed settlement and have agreed to exchange information pertinent to settlement, but at this time the prospects for settlement remain uncertain. The parties do not consent to proceed for all purposes before the Magistrate designated in this action.

Concurrently with the delivery of this letter, we are sending a copy of the proposed case management plan in word processing format to the Orders and Judgments Clerk under Rule 18.3

¹ The proposed case management plan calls for Defendants to file their answer and counterclaims by December 17, 2014. Subject to the Court’s approval, Plaintiff consents to Defendants filing their responsive pleading at that time, even though it exceeds the deadline imposed by Federal Rule of Civil Procedure 12(a).

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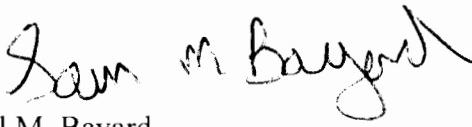
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Hon. Victor Marrero
United States District Judge
November 25, 2014
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of the ECF Rules for the Southern District of New York. Thank you for your attention to this matter.

Respectfully submitted,


Samuel M. Bayard

SMB/lp

cc: Steven Hoffenberg
Todd Zuckerbrod
Laura Handman
Camille Calman